HOUSE BILL 793

N1 4lr3089 HB 361/21 - ENT

By: Delegates Holmes, Harris, Davis, and Turner

Introduced and read first time: January 31, 2024 Assigned to: Environment and Transportation

A BILL ENTITLED

1	AN ACT concerning
2	Real Property – Governing Bodies of Common Ownership Communities – Member Training
4	FOR the purpose of requiring each member of a board of directors or officer of a council of
5	unit owners of a condominium and each member of a governing body of a
$\frac{6}{7}$	homeowners association to successfully complete a certain training curriculum in a certain manner and subject to certain requirements; and generally relating to
8	members of governing bodies of condominiums and homeowners associations.
9	BY repealing and reenacting, with amendments,
10	Article – Real Property
11	Section 11–109 and 11B–106.1(g)
12	Annotated Code of Maryland
13	(2023 Replacement Volume)
14	BY repealing and reenacting, without amendments,
15	Article – Real Property
16	Section 11B–106.1(a)
17	Annotated Code of Maryland
18	(2023 Replacement Volume)
19	BY adding to
20	Article – Real Property
21	Section 11B–106.1(g)
22	Annotated Code of Maryland
23	(2023 Replacement Volume)
24	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25	That the Laws of Maryland read as follows:

Article - Real Property

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 11–109.
- 2 (a) The affairs of the condominium shall be governed by a council of unit owners
- 3 which, even if unincorporated, is constituted a legal entity for all purposes. The council of
- 4 unit owners shall be comprised of all unit owners.
- 5 (b) The bylaws may authorize or provide for the delegation of any power of the
- 6 council of unit owners to a board of directors, officers, managing agent, or other person for
- 7 the purpose of carrying out the responsibilities of the council of unit owners.
- 8 (C) (1) (I) EACH MEMBER OF A BOARD OF DIRECTORS OR OFFICER OF
- 9 A COUNCIL OF UNIT OWNERS SHALL SUCCESSFULLY COMPLETE A TRAINING
- 10 CURRICULUM ON THE RESPONSIBILITIES OF BEING A MEMBER OR AN OFFICER
- 11 **DEVELOPED BY:**
- 12 1. A COMMON OWNERSHIP COMMISSION RECOGNIZED
- 13 BY THE STATE OR A LOCAL GOVERNMENT;
- 2. AN ORGANIZATION APPROVED TO ADMINISTER THE
- 15 TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;
- 16 3. AN INSTITUTION ACCREDITED BY THE MIDDLE
- 17 STATES COMMISSION ON HIGHER EDUCATION;
- 4. A MEMBERSHIP ORGANIZATION THAT OFFERS
- 19 NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY
- 20 MANAGERS; OR

- 21 5. A COUNTY WITH COURSEWORK ESTABLISHED BY THE
- 22 COUNTY COMMON OWNERSHIP COMMISSION.
- 23 (II) A TRAINING CURRICULUM DEVELOPED UNDER THIS
- 24 PARAGRAPH SHALL INCLUDE TRAINING ON:
- 25 1. The Maryland Homeowners Association Act,
- 26 THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE
- 27 HOUSING CORPORATION ACT;
- 28 2. Roles and responsibilities of common
- 29 OWNERSHIP COMMUNITY GOVERNING BODIES;
 - 3. FIDUCIARY DUTY;

1		4.	RESPONSIBLE GOVERNANCE POLICIES;
2		5.	LEGAL STRUCTURES AND GUIDELINES;
3		6.	RESERVES AND AUDITS;
4		7.	MEETING PROCEDURES AND REQUIREMENTS;
5		8.	HANDLING OF DISPUTES;
6		9.	INSURANCE AND BONDING;
7		10.	COMMUNITY MAINTENANCE;
8		11.	RECORD KEEPING; AND
9 10	BODIES.	12.	STATE AND LOCAL RESOURCES FOR GOVERNING
11 12 13 14	COUNCIL OF UNIT OW	NERS	BER OF THE BOARD OF DIRECTORS OR OFFICER OF THE SHALL SUCCESSFULLY COMPLETE THE TRAINING DER THIS SUBSECTION WITHIN 90 DAYS AFTER THE
15	(I)	Is fil	RST ELECTED OR APPOINTED TO THE OFFICE; OR
16 17 18	2024, BEGINS A SUBSEQ	UENT	AN INDIVIDUAL WHO IS IN OFFICE ON OCTOBER 1, TERM AS A MEMBER OF THE BOARD OF DIRECTORS OR OF UNIT OWNERS.
19 20	(3) (I) COUNCIL OF UNIT OWNE		BOARD OF DIRECTORS OR THE OFFICERS OF THE HALL:
21 22 23	SUCCESSFULLY COMPLESUBSECTION;	1. ETES	CERTIFY THAT EACH MEMBER OR OFFICER THE TRAINING CURRICULUM REQUIRED UNDER THIS
24 25	COMPLETION OF EACH	2. MEMB	RETAIN A COPY OF THE CERTIFICATE OF ER OR OFFICER; AND
26		3.	WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE

MEMBER OR OFFICER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE

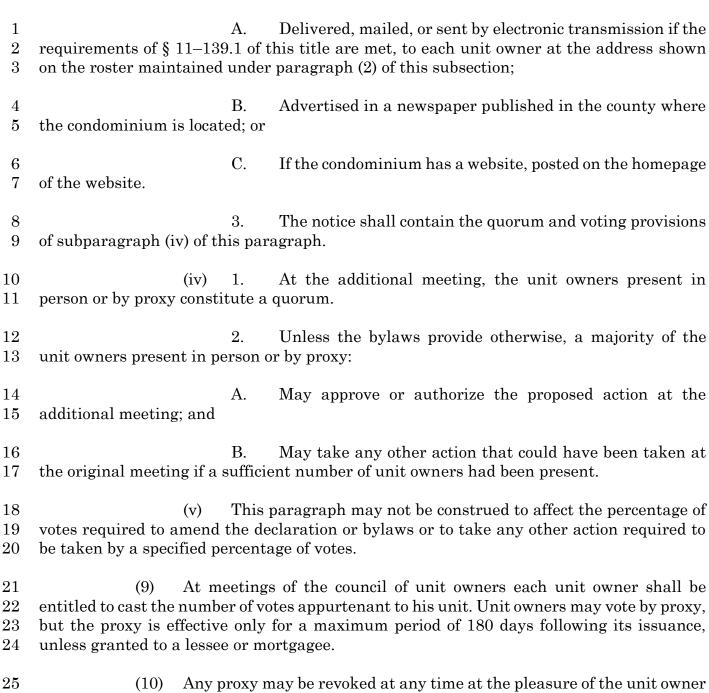
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CERTIFICATION.

$1\\2$	(II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS PARAGRAPH SHALL BE VALID FOR 3 YEARS.								
3 4 5 6	(III) AN INDIVIDUAL WHO REMAINS A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS AT THE TIME THE CERTIFICATE EXPIRES SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE TRAINING REQUIRED UNDER THIS SUBSECTION.								
7 8 9 10	(4) IF A MEMBER OF THE BOARD OF DIRECTORS OR AN OFFICER OF THE COUNCIL OF UNIT OWNERS DOES NOT SUCCESSFULLY COMPLETE THE TRAINING REQUIRED UNDER THIS SUBSECTION, THE BOARD OF DIRECTORS OR THE COUNCIL OF UNIT OWNERS MAY:								
11	(I) REMOVE THE INDIVIDUAL FROM THE OFFICE; OR								
12	(II) INVALIDATE A VOTE OF THE INDIVIDUAL.								
13 14	[(c)] (D) (1) A meeting of the council of unit owners or board of directors may not be held on less notice than required by this section.								
15 16 17	(2) The council of unit owners shall maintain a current roster of names and addresses of each unit owner to which notice of meetings of the board of directors shall be sent at least annually.								
18 19 20	and current mailing address. A unit owner may not vote at meetings of the council of unit								
21 22	(4) A regular or special meeting of the council of unit owners may not be held on less than 10 nor more than 90 days':								
23 24	(i) Written notice delivered or mailed to each unit owner at the address shown on the roster on the date of the notice; or								
25 26	(ii) Notice sent to each unit owner by electronic transmission, if the requirements of § 11–139.1 of this title are met.								
27	(5) Notice of special meetings of the board of directors shall be given:								
28	(i) As provided in the bylaws; or								
29 30	(ii) If the requirements of § 11–139.1 of this title are met, by electronic transmission.								

- 1 Except as provided in § 11–109.1 of this title, a meeting of a governing (6)2 body shall be open and held at a time and location as provided in the notice or bylaws. 3 (7)This paragraph does not apply to any meeting of the governing 4 body that occurs at any time before the meeting at which the unit owners elect officers or a 5 board of directors in accordance with paragraph (16) of this subsection. 6 Subject to subparagraph (iii) of this paragraph and to reasonable (ii) 7 rules adopted by the governing body under § 11–111 of this title, a governing body shall 8 provide a designated period of time during a meeting to allow unit owners an opportunity 9 to comment on any matter relating to the condominium. 10 During a meeting at which the agenda is limited to specific topics (iii) 11 or at a special meeting, the unit owners' comments may be limited to the topics listed on 12 the meeting agenda. 13 (iv) The governing body shall convene at least one meeting each year 14 at which the agenda is open to any matter relating to the condominium. 15 (8)Unless the bylaws provide otherwise, a quorum is deemed present throughout any meeting of the council of unit owners if persons entitled to cast 25 16 17 percent of the total number of votes appurtenant to all units are present in person or by 18 proxy. 19 If the number of persons present in person or by proxy at a (ii) 20 properly called meeting of the council of unit owners is insufficient to constitute a quorum, 21an additional meeting of the council of unit owners may be called for the same purpose if: 221. The notice of the initial properly called meeting stated: 23 A. That the procedure authorized by this paragraph might be 24invoked; and В. 25 The date, time, and place of the additional meeting; and 26 2.A majority of the unit owners present vote in person or by 27 proxy to call for the additional meeting. 28 An additional meeting called under subparagraph (ii) of (iii) 1. this paragraph shall occur not less than 15 days after the initial properly called meeting. 29 30 2. Not less than 10 days before the additional meeting, a
- 2. Not less than 10 days before the additional meeting, a separate and distinct notice of the date, time, place, and purpose of the additional meeting called under subparagraph (ii) of this paragraph shall be:



- 2526 or unit owners executing the proxy.
- 27 A proxy who is not appointed to vote as directed by a unit owner may 28 only be appointed for purposes of meeting quorums and to vote for matters of business 29 before the council of unit owners, other than an election of officers and members of the 30 board of directors.
- 31 Only a unit owner voting in person or by electronic transmission if the (12)32requirements of § 11–139.2 of this title are met or a proxy voting for candidates designated 33 by a unit owner may vote for officers and members of the board of directors.

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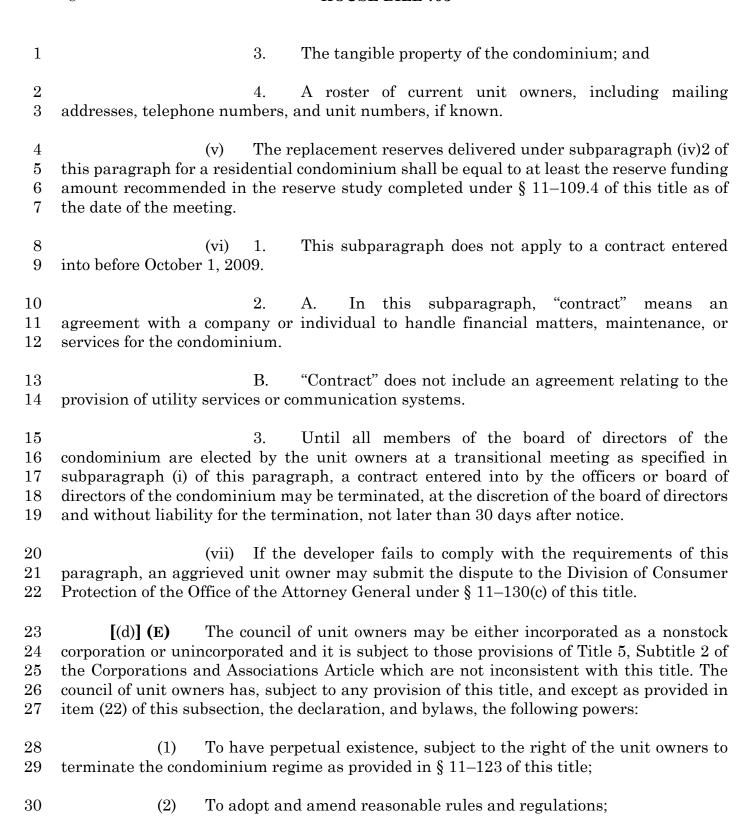
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- (13) Unless otherwise provided in the bylaws, a unit owner may nominate himself or any other person to be an officer or member of the board of directors. A call for nominations shall be sent to all unit owners not less than 45 days before notice of an election is sent. Only nominations made at least 15 days before notice of an election shall be listed on the election ballot. Candidates shall be listed on the ballot in alphabetical order, with no indicated candidate preference. Nominations may be made from the floor at the meeting at which the election to the board is held.
- 8 (14) Election materials prepared with funds of the council of unit owners 9 shall list candidates in alphabetical order and may not indicate a candidate preference.
- 10 (15) Unless otherwise provided in this title, and subject to provisions in the bylaws requiring a different majority, decisions of the council of unit owners shall be made on a majority of votes of the unit owners listed on the current roster present and voting.
- 13 (16) (i) A meeting of the council of unit owners to elect a board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, shall be held within:
- 1. 60 days from the date that units representing 50 percent of the votes in the condominium have been conveyed by the developer to members of the public for residential purposes; or
- 2. If a lesser percentage is specified in the declaration or bylaws of the condominium, 60 days from the date the specified lesser percentage of units in the condominium are sold to members of the public for residential purposes.
- 22 (ii) 1. Before the date of the meeting held under subparagraph 23 (i) of this paragraph, the developer shall deliver to each unit owner notice that the 24 requirements of subparagraph (i) of this paragraph have been met.
- 25 2. The notice shall include the date, time, and place of the meeting to elect the board of directors for the council of unit owners.
- 27 (iii) If a replacement board member is elected, the term of each member of the board of directors appointed by the developer shall end 10 days after the meeting is held as specified in subparagraph (i) of this paragraph.
- 30 (iv) Within 30 days from the date of the meeting held under subparagraph (i) of this paragraph, the developer shall deliver to the officers or board of directors for the council of unit owners, as provided in the condominium declaration or bylaws, at the developer's expense:
- 34 1. The documents specified in § 11–132 of this title;
- 35 2. The condominium funds, including operating funds, 36 replacement reserves, investment accounts, and working capital;

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(3)

and collect assessments for common expenses from unit owners;



To adopt and amend budgets for revenues, expenditures, and reserves

- 1 (4) To sue and be sued, complain and defend, or intervene in litigation or 2 administrative proceedings in its own name on behalf of itself or two or more unit owners 3 on matters affecting the condominium;
- 4 (5) To transact its business, carry on its operations and exercise the powers 5 provided in this subsection in any state, territory, district, or possession of the United 6 States and in any foreign country;
- 7 (6) To make contracts and guarantees, incur liabilities and borrow money, 8 sell, mortgage, lease, pledge, exchange, convey, transfer, and otherwise dispose of any part 9 of its property and assets;
- 10 (7) To issue bonds, notes, and other obligations and secure the same by 11 mortgage or deed of trust of any part of its property, franchises, and income;
- 12 (8) To acquire by purchase or in any other manner, to take, receive, own, 13 hold, use, employ, improve, and otherwise deal with any property, real or personal, or any 14 interest therein, wherever located;
- 15 (9) To hire and terminate managing agents and other employees, agents, and independent contractors;
- 17 (10) To purchase, take, receive, subscribe for or otherwise acquire, own, 18 hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of, and otherwise 19 use and deal in and with, shares or other interests in, or obligation of corporations of the 20 State, or foreign corporations, and of associations, partnerships, and individuals;
- 21 (11) To invest its funds and to lend money in any manner appropriate to 22 enable it to carry on the operations or to fulfill the purposes named in the declaration or 23 bylaws, and to take and to hold real and personal property as security for the payment of 24 funds so invested or loaned;
- 25 (12) To regulate the use, maintenance, repair, replacement, and 26 modification of common elements;
- 27 (13) To cause additional improvements to be made as a part of the general 28 common elements:
- 29 (14) To grant easements, rights-of-way, licenses, leases in excess of 1 year, 30 or similar interests through or over the common elements in accordance with § 11–125(f) 31 of this title;
- 32 (15) To impose and receive any payments, fees, or charges for the use, rental, 33 or operation of the common elements other than limited common elements;

- 1 (16) To impose charges for late payment of assessments and, after notice 2 and an opportunity to be heard, levy reasonable fines for violations of the declaration, 3 bylaws, and rules and regulations of the council of unit owners, under § 11–113 of this title;
- 4 (17) To impose reasonable charges for the preparation and recordation of 5 amendments to the declaration, bylaws, rules, regulations, or resolutions, resale 6 certificates, or statements of unpaid assessments;
- 7 (18) To provide for the indemnification of and maintain liability insurance 8 for officers, directors, and any managing agent or other employee charged with the 9 operation or maintenance of the condominium;
- 10 (19) To enforce the implied warranties made to the council of unit owners by 11 the developer under § 11–131 of this title;
- 12 (20) To enforce the provisions of this title, the declaration, bylaws, and rules and regulations of the council of unit owners against any unit owner or occupant;
- 14 (21) Generally, to exercise the powers set forth in this title and the 15 declaration or bylaws and to do every other act not inconsistent with law, which may be 16 appropriate to promote and attain the purposes set forth in this title, the declaration or 17 bylaws; and
- 18 (22) To designate parking for individuals with disabilities, notwithstanding any provision in the declaration, bylaws, or rules and regulations.
- [(e)] (F) A unit owner may not have any right, title, or interest in any property owned by the council of unit owners other than as holder of a percentage interest in common expenses and common profits appurtenant to his unit.
- [(f)] (G) A unit owner's rights as holder of a percentage interest in common expenses and common profits are such that:
- 25 (1) A unit owner's right to possess, use, or enjoy property of the council of unit owners shall be as provided in the bylaws; and
- 27 (2) A unit owner's interest in the property is not assignable or attachable separate from his unit except as provided in §§ 11–107(d) and 11–112(g) of this title.
- 29 11B-106.1.
- 30 (a) A meeting of the members of the homeowners association to elect a governing 31 body of the homeowners association shall be held within:
- 32 (1) 60 days from the date that at least 75% of the total number of lots that 33 may be part of the development after all phases are complete are sold to members of the 34 public for residential purposes; or

1 2 3 4	(2) If a lesser percentage is specified in the governing documents of the homeowners association, 60 days from the date the specified lesser percentage of the total number of lots in the development after all phases are complete are sold to members of the public for residential purposes.
5 6 7	(G) (1) (I) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY COMPLETE A TRAINING CURRICULUM ON THE RESPONSIBILITIES OF A MEMBER OF THE GOVERNING BODY DEVELOPED BY:
8 9	1. A COMMON OWNERSHIP COMMISSION RECOGNIZED BY THE STATE OR A LOCAL GOVERNMENT;
10 11	2. AN ORGANIZATION APPROVED TO ADMINISTER THE TRAINING CURRICULUM BY A RECOGNIZED COMMON OWNERSHIP COMMISSION;
12 13	3. AN INSTITUTION ACCREDITED BY THE MIDDLE STATES COMMISSION ON HIGHER EDUCATION;
14 15 16	4. A MEMBERSHIP ORGANIZATION THAT OFFERS NATIONALLY RECOGNIZED CERTIFICATION CREDENTIALS FOR COMMUNITY MANAGERS; OR
17 18	5. A COUNTY WITH COURSEWORK ESTABLISHED BY THE COUNTY COMMON OWNERSHIP COMMISSION.
19 20	(II) A TRAINING CURRICULUM DEVELOPED UNDER THIS PARAGRAPH SHALL INCLUDE TRAINING ON:
21 22 23	1. THE MARYLAND HOMEOWNERS ASSOCIATION ACT, THE MARYLAND CONDOMINIUM ACT, AND THE MARYLAND COOPERATIVE HOUSING CORPORATION ACT;
24 25	2. ROLES AND RESPONSIBILITIES OF COMMON OWNERSHIP COMMUNITY GOVERNING BODIES;
26	3. FIDUCIARY DUTY;
27	4. RESPONSIBLE GOVERNANCE POLICIES;
28	5. LEGAL STRUCTURES AND GUIDELINES;
29	6. RESERVES AND AUDITS;

1	7. MEETING PROCEDURES AND REQUIREMENTS;
2	8. HANDLING OF DISPUTES;
3	9. Insurance and bonding;
4	10. COMMUNITY MAINTENANCE;
5	11. RECORD KEEPING; AND
6 7	12. STATE AND LOCAL RESOURCES FOR GOVERNING BODIES.
8 9 10	(2) EACH MEMBER OF THE GOVERNING BODY SHALL SUCCESSFULLY COMPLETE THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE INDIVIDUAL:
11 12	(I) IS FIRST ELECTED OR APPOINTED TO THE GOVERNING BODY; OR
13 14	(II) FOR A MEMBER WHO IS IN OFFICE ON OCTOBER 1, 2024, BEGINS A SUBSEQUENT TERM AS A MEMBER OF THE GOVERNING BODY.
15	(3) (I) THE GOVERNING BODY SHALL:
16 17	1. CERTIFY THAT EACH MEMBER SUCCESSFULLY COMPLETES THE TRAINING CURRICULUM REQUIRED UNDER THIS SUBSECTION;
18 19	2. RETAIN A COPY OF THE CERTIFICATE OF COMPLETION OF EACH MEMBER; AND
20 21 22	3. WITHIN 90 DAYS AFTER THE CERTIFICATION OF THE MEMBER, REPORT TO THE COMMON OWNERSHIP COMMISSION ON THE CERTIFICATION.
23 24	(II) A CERTIFICATE OF COMPLETION ISSUED UNDER THIS PARAGRAPH SHALL BE VALID FOR 3 YEARS.
25 26 27	(III) IF A MEMBER OF THE GOVERNING BODY REMAINS A MEMBER OF THE GOVERNING BODY AT THE TIME THE CERTIFICATE EXPIRES, THE MEMBER SHALL RENEW THE CERTIFICATION BY SUCCESSFULLY COMPLETING THE

TRAINING REQUIRED UNDER THIS SUBSECTION.

1	(4)	$\mathbf{I}\mathbf{F}$	\mathbf{A}	MEMBE	R OF	THE	GOVER	RNING	BODY	DOES	NOT
2	SUCCESSFULLY	COMI	PLET	E THE	TRAININ	IG REG	QUIRED	UNDER	THIS	SUBSEC	TION,
3	THE GOVERNING	A BOD	V MA	v •							

- (I) REMOVE THE MEMBER FROM THE GOVERNING BODY; OR
- (II) INVALIDATE A VOTE OF THE MEMBER.

- [(g)] (H) If the declarant fails to comply with the requirements of this section, an aggrieved lot owner may submit the dispute to the Division of Consumer Protection of the Office of the Attorney General under § 11B–115(c) of this title.
- 9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 10 October 1, 2024.